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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/769,639	01/24/2001	Michael Migdol	BVOCP008	5267
7590	03/03/2005		EXAMINER	
Megan Carroll BeVocal, Inc. 685 Clyde Avenue Mountain View, CA 94043-2213			JACKSON, JAKIEDA R	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/769,639	MIGDOL ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jakieda R Jackson	2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on 27 September 2004.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-3,6-8,11-13 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) 16-29 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,6-8,11-13 and 16-29 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 16-29 are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 April 2001 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Response to Amendment***

1. In response to the Office Action mailed November 17, 2003, applicant(s) submitted an amendment filed on September 27, 2004, in which the applicant amended independent claims 1, 6 and 11 and added claims 16-29.

### ***Response to Arguments***

2. Applicant(s) disagrees with the rejection, especially in view of the amendments made. However, applicant's arguments with respect to claims 1, 6 and 11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Specification***

3. The abstract and disclosure is objected to because of the following informalities:

- Providing voice-enabled driving directions by receiving an utterance representative of a flight identifier conflicts. Voice-enabled driving directions are not needed to obtain flight identifier information. "Voice-enabled driving directions" should be changed to --flight information-- (see the abstract and the specification page 4 and page 26, lines 15-24).

Appropriate correction is required.

***Election/Restrictions***

4. Newly submitted **claims 16-29** are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, 6-8 and 11-13 are drawn to obtaining flight information.
- II. Claims 16-17 are drawn to obtaining localized content.
- III. Claims 18-29 are drawn to obtaining driving directions.

5. Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable.

6. In the instant case, invention I has separate utility than inventions II and III because localized content or driving directions is not need to obtain flight information. Invention II has separate utility than inventions I and III because flight information and driving directions is not needed to obtain localized content. Invention III has separate utility than inventions I and II because driving directions is not needed to obtain flight information and localized information. See MPEP § 806.05.

7. Claim 1 is a linking claims that links inventions I-III and if found allowable a rejoinder of the non-elected inventions would be proper.

8. The inventions are distinct, each from the other because of the following reasons:

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

9. Since applicant has received an action on the merits for the originally presented invention, invention I has been constructively elected by original presentation for prosecution on the merits. Accordingly, inventions II and III, drawn to claims 16-29, are withdrawn from consideration as being directed to non-elected inventions II and III. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

11. **Claims 1-3, 6-8 and 11-13** are rejected under 35 U.S.C. 102(e) as being anticipated by Waesterlid et al. (U.S Publication No. 2003/0034958), hereinafter referenced as Waesterlid.

Regarding **claims 1, 6 and 11**, Waesterlid discloses a method, computer program product and system for flight information, comprising:

- (a) receiving an flight utterance (voice call) representative of a flight identifier (column 3, paragraph 0034 and figure 2, element 58);
- (b) transcribing the flight utterance utilizing a speech recognition process (column 3, paragraph 0034); and
- (c) querying a flight database for generating flight information based on the flight identifier (column 3, paragraph 0034 and figure 2, element 58);

wherein the flight information includes a time of arrival of the flight (arrival time; column 2, paragraph 0027), a flight number of the flight (figure 1, element 14) and a flight delay of the flight (column 3, paragraphs 0039 and 0041).

Regarding **claims 2, 7 and 12**, Waesterlid discloses a method, computer program product and system wherein the utterance is received utilizing a network (figure 3, element 70 with column 3, paragraph 0039).

Regarding **claims 3, 8 and 13**, Waesterlid discloses a method, computer program product and system wherein the network includes the Internet (figure 3, element 24 with column 3, paragraph 0039).

***Claim Rejections - 35 USC § 103***

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. **Claims 1-3, 6-8 and 11-13** are *alternately* rejected under 35 U.S.C. 103(a) as being unpatentable over Gardner et al. (U.S. Publication No. 2002/0178034), hereinafter referenced as Gardner.

Regarding **claims 1, 6 and 11**, Gardner discloses a method, computer program product and system for flight information, comprising:

(a) receiving an flight utterance (figure 2,element 38) representative of a flight identifier (figure 2, elements 44 and 56);  
(b) transcribing the flight utterance utilizing a speech recognition process (figure 2, element 38); and

(c) querying a flight database for generating flight information based on the flight identifier (figure 2, element 44 with column 3, paragraph 0047);

wherein the flight information includes a time of arrival of the flight (flight schedules; column 3, paragraph 0047), a flight number of the flight (column 6, paragraph 0076) and a flight delay of the flight (delay; column 4, paragraph 0051).

Although Gardner does not specifically teach flight arrival, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the flight schedule would include flight arrivals, departures or any other type of flight availability, to provide easy and efficient means of automatically distributing travel services, such as airline travel, to arrange and secure travel plans, as taught by Gardner (column 2, paragraph 0016).

Regarding **claims 2, 7 and 12**, Gardner discloses a method, computer program product and system wherein the utterance is received utilizing a network (via a communication network; column 4, paragraph 0060).

Regarding **claims 3, 8 and 13**, Gardner discloses a method, computer program product and system wherein the network includes the Internet (internet; column 4, paragraph 0060).

### ***Conclusion***

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Walker et al. (U.S. Publication No. 2002/0156659) discloses a method and apparatus for the sale of airline-specified flight tickets.

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jakieda R Jackson whose telephone number is 703.305.5593. The examiner can normally be reached on Monday through Friday from 7:30 a.m. to 5:00p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703. 305.4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRJ  
February 28, 2005



DAVID L. OMETZ  
PRIMARY EXAMINER